# National Labor Relations Board Weekly Summary



## Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991	
May 1, 2009		W-3206	

### CASES SUMMARIZED VISIT <u>WWW.NLRB.GOV</u> FOR FULL TEXT

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PDK Investments, LLC and International Brotherhood of Electrical Workers, Local Union 20 (16-CA-26292; 354 NLRB No. 1) Balch Springs, TX, April 24, 2009. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to provide the Union with requested information. The Union sought the information in order to determine if the Respondent was unlawfully diverting work from the bargaining unit. The Board agreed that the Union adequately established the relevance of the request. In a footnote, Member Schaumber noted that while he does not necessarily agree with Board precedent holding that a requester may simply state a reason for its information request without giving any factual basis for the request, the Union's June 9, 2008 letter to the Respondent provided a sufficient factual basis for the request. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charge filed by Electrical Workers Local 20; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Fort Worth on Dec. 3, 2008. Adm. Law Judge Michael A. Marcionese issued his decision Dec. 29, 2008.

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Stevens Creek Chrysler Jeep Dodge, Inc., (20-CA-33367 et.al; 353 NLRB No. 123) San Jose, CA April 20, 2009. The administrative law judge found that the Respondent committed multiple violations of Section 8(a)(1) of the Act during an organizing campaign by its auto mechanic employees, but either dismissed or failed to address other alleged Section 8(a)(1) and (3) violations. To remedy the coercive effects of the Section 8(a)(1) violations that he found, the judge ruled that the Board's traditional remedies were sufficient. Therefore, he rejected the General Counsel's request for a bargaining order pursuant to NLRB v. Gissel Packing Co., 395 U.S. 575 (1969), and dismissed several Section 8(a)(5) allegations that were dependent on the issuance of a bargaining order. [HTML] [PDF]

The Respondent did not except to the Section 8(a)(1) violations found by the judge, and the Board adopted his findings. These violations are set forth in fns. 3 and 8 of the decision. In Section 1 of its decision, the Board found that the Respondent committed additional violations of Section 8(a)(1), and Section 2 remands several other 8(a)(1) allegations for necessary credibility determinations, findings, and analysis. Section 2 of the decision also remands for further consideration by the judge his dismissal of a Section 8(a)(3) discharge allegation.

In light of the violations found in Section 1 of the decision, and after the judge determines whether the remanded allegations discussed in Section 2 warrant finding any additional violations, the Board directs the judge to reevaluate the appropriateness of a Gissel bargaining order. The Board also notes in fn. 18 that, depending on the outcome of his reconsideration of a Gissel bargaining order, the judge is also required to reconsider his dismissal of the 8(a)(5) allegations.

Charges were filed by Machinists District Lodge 190 and Local 1101; the complaint alleged violations of Section 8(a)(1), (3), and (5). Hearing at San Francisco. Adm. Law Judge Jay R. Pollack issued his decision July 1, 2008.

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#### DECISION OF ADMINISTRATIVE LAW JUDGE

California Gas Transport, Inc. (General Teamsters (excluding Mailers), State of Arizona, Local 104) El Paso, TX April 23, 2009. 28-CA-19645, et al.; JD(SF)-17-09, Judge John J. McCarrick.

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### LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

### DECISION AND CERTIFICATION OF REPRESENTATIVE

Mike Haggerty Pontiac Buick GMC, Oak Lawn, IL, 13-RC-21787, April 24, 2009 (Chairman Liebman and Member Schaumber)

### DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Treasure Bay VI d/b/a Divi Carina Bay Casino, Christiansted St. Croix, USVI, 24-RD-00522, April 22, 2009

First Student, Inc., Columbus, OH, 9-RC-18238, April 22, 2009

### DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

The Closet Factory, Inc., Long Island City, NY, 29-RC-11625, April 22, 2009

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# (In the following cases, the Board denied a request for review of Decision and Direction of Election (D&DE) or a Decision and Order (D&O) of a Regional Director)

- Fred Meyer Stores, Inc., Lacey, WA, 19-RC-15036, April 21, 2009 (Chairman Liebman and Member Schaumber)
- Fred Meyer Stores, Inc., Sumner, WA, 19-RC-15057, April 21, 2009 (Chairman Liebman and Member Schaumber)
- Fred Meyer Stores, Inc., Spokane, WA, 19-RC-15068, April 21, 2009 (Chairman Liebman and Member Schaumber)
- Community Holdings, Inc. d/b/a The Herald Bulletin, Anderson, IN, 25-RC-10454, April 21, 2009 (Chairman Liebman and Member Schaumber)

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